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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,643	02/26/2002	Vinod Asundi	21272-502	1038

7590 07/20/2006

Petrina S. Hsi
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

EXAMINER

ZHOU, SHUBO

ART UNIT	PAPER NUMBER
----------	--------------

1631

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/084,643	Applicant(s) ASUNDI ET AL.	
	Examiner Shubo (Joe) Zhou	Art Unit 1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10,11 and 20 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 10-11 and 20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet.</u> |

Continuation of Attachment(s) 6). Other: Raw Sequence Listing Error Report.

DETAILED ACTION

Restriction/Election Requirement

The claims of this application have been amended in a preliminary amendment filed 9/18/02. Claims 10-11 and 20 are currently pending.

Independent claim 10 is drawn to an isolated “polypeptide encoded by the polynucleotide of 785 SEQ ID NO:2715,” and independent claim 20 is drawn to a “polypeptide encoded by the polynucleotide comprising a nucleic acid sequence which is 95% identical to the nucleic acid sequence of 785 SEQ ID NO:2715.”

The claim language is confusing as to what is meant by “785 SEQ ID NO:2715,” but it appears that multiple sequences are claimed.

The MPEP 803.04 states:

Nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions with the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 et seq. Examination will be restricted to only the elected sequence.

Since the claims are drawn to polypeptides, applicants must elect a single amino acid sequence and/or a single polynucleotide sequence that encodes the polypeptide sequence.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR § 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Sequence Rule Compliance

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR, § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR, § 1.821 through 1.825 because the computer readable form (CRF) of the sequence listing is defective. See the attached "Raw Sequence Listing Error Report." A new CRF and a statement under 37 CFR 1.821(f) are required. Applicants are given the same response time regarding this failure to comply as that set forth to respond to this Office action. Failure to respond to this requirement may result in abandonment of the instant application or a notice of a failure to fully respond to this Office action.

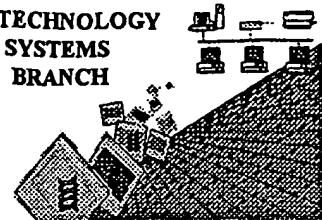
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shubo (Joe) Zhou, whose telephone number is 571-272-0724. The examiner can normally be reached Monday-Friday from 8 A.M. to 4 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, can be reached on 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is

(866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Shubo (Joe) Zhou, Ph.D.
Patent Examiner

A handwritten signature in black ink, appearing to read 'Shubo Zhou', written over a horizontal line.



RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 10/084,643B
Source: OIR
Date Processed by STIC: 7/18/2003

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.

PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

- 1) INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,
- 2) TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY

FOR CRF SUBMISSION AND PATENTIN SOFTWARE QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE CHECKER VERSION 4.0 PROGRAM, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW FOR ADDRESS:

<http://www.uspto.gov/web/offices/pac/checker>

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail. Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom. Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<<http://www.uspto.gov/ebc/efs/downloads/documents.htm>> , EFS Submission User Manual - ePAVE)
2. U.S. Postal Service: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. Hand Carry directly to:
U.S. Patent and Trademark Office, Technology Center 1600, Reception Area, 7th Floor, Examiner Name, Sequence Information, Crystal Mall One, 1911 South Clark Street, Arlington, VA 22202
Or
U.S. Patent and Trademark Office, Box Sequence, Customer Window, Lobby, Room 1B03, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202
4. Federal Express, United Parcel Service, or other delivery service to: U.S. Patent and Trademark Office, Box Sequence, Room 1B03-Mailroom, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202

Revised 04/24/2003



OIPE

RAW SEQUENCE LISTING

DATE: 07/18/2003

PATENT APPLICATION: US/10/084,643B

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7 Asundi, Vinod
8 Drmanac, Radoje T.
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14 <130> FILE REFERENCE: 21272-502
16 <140> CURRENT APPLICATION NUMBER: 10/084,643B
17 <141> CURRENT FILING DATE: 2002-02-26
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Does Not Comply
Corrected Diskette Needed

ppr 2-4,6,9-13

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P.4

RAW SEQUENCE LISTING

PATENT APPLICATION: US/10/084,643B

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4957193 <210> SEQ ID NO: 147913
4957194 <211> LENGTH: 11027

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invalid
for use
in the
sequence
itself.
Use "n" and
explain in
<220>-<223>
response

"d" is
valid;
"f" is
invalid

RAW SEQUENCE LISTING

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4957195 <212> TYPE: DNA
 4957196 <213> ORGANISM: Homo sapiens
 4957198 <220> FEATURE:
 4957199 <221> NAME/KEY: misc_feature
 4957200 <222> LOCATION: (1)...(11027)
 4957201 <223> OTHER INFORMATION: n = a,t,c or g
 4957207 <400> SEQUENCE: 147913

p.6

4957208	cacattggaa	agtcaatgcc	aaatgtccta	gaagatgaag	tatatgaaac	agttgtagat	60
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4957210	aaagtaagaa	ctagcaagac	taggaaaaaa	atthttccatg	aagcaaacgc	tgatgaatgt	180
4957211	gaaaaatcta	aaaaccaagt	gaaagaaaaa	tactcatttg	tatctgaagt	ggaaccaa	240
4957212	gatactgac	cattagattc	aaatgtagca	aatcagaagc	cctttgagag	tggaagtgc	300
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4957214	gggtctaaatg	gagcccagat	ggagaaaata	cccctattgc	atattttcttc	atgtgaccaa	420
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RAW SEQUENCE LISTING

PATENT APPLICATION: US/10/084,643B

DATE: 07/18/2003

TIME: 15:59:25

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RAW SEQUENCE LISTING

DATE: 07/18/2003

PATENT APPLICATION: US/10/084,643B

TIME: 15:59:26

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P.11

RAW SEQUENCE LISTING

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VERIFICATION SUMMARY

DATE: 07/18/2003

PATENT APPLICATION: US/10/084,643B

TIME: 15:59:49

Input Set : E:\pt_SEQ.502.txt

Output Set: N:\CRF4\07182003\J084643B.raw

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VERIFICATION SUMMARY

PATENT APPLICATION: US/10/084,643B

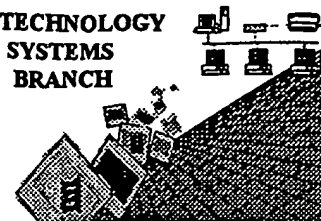
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RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 10/084,643A
Source: Q1PE
Date Processed by STIC: 5/7/2003

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FOR CRF SUBMISSION AND PATENTIN SOFTWARE QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.

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Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.

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1. EFS-Bio (<<http://www.uspto.gov/ebs/efs/downloads/documents.htm>> , EFS Submission User Manual - ePAVE)
2. U.S. Postal Service: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
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U.S. Patent and Trademark Office, Technology Center 1600, Reception Area, 7th Floor, Examiner Name, Sequence Information, Crystal Mall One, 1911 South Clark Street, Arlington, VA 22202
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Revised 04/24/2003



OIPE

RAW SEQUENCE LISTING

PATENT APPLICATION: US/10/084,643A

DATE: 05/07/2003

TIME: 14:43:54

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Output Set: N:\CRF4\05072003\J084643A.raw

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7 Asundi, Vinod
8 Drmanac, Radoje T.
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14 <130> FILE REFERENCE: 21272-502
16 <140> CURRENT APPLICATION NUMBER: 10/084,643A
17 <141> CURRENT FILING DATE: 2002-02-26
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Does Not Comply
Corrected Diskette Needed

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RAW SEQUENCE LISTING

DATE: 05/07/2003

PATENT APPLICATION: US/10/084,643A

TIME: 14:43:54

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DATE: 05/07/2003

PATENT APPLICATION: US/10/084,643A

TIME: 14:46:04

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RAW SEQUENCE LISTING

DATE: 05/07/2003

PATENT APPLICATION: US/10/084,643A

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RAW SEQUENCE LISTING

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P.b

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RAW SEQUENCE LISTING

DATE: 05/07/2003

PATENT APPLICATION: US/10/084,643A

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RAW SEQUENCE LISTING

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P.11

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p. 12

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Input Set : E:\pt_SEQ.502

Output Set: N:\CRF4\05072003\J084643A.raw

5033079	gctgtgaaaa	acctctgttg	gaaaaatccc	actgcattgc	cgaagtggaa	aatgatgaga	120
5033080	tgctgtctga	cttgccttca	ttagctgctg	atthttgttg	aagtaaggat	gtttgcaaaa	180
5033081	actatgctga	ggcaaaggat	gtcttcctgg	gcatgttttt	gtatgaatat	gcaagaaggc	240
5033082	atcctgatta	ctctgtcgtg	ctgctgctga	gacttgccaa	gacatatgaa	accactctag	300
5033083	agaagtgtctg	tgccgctgca	gatcctcatg	aatgctatgc	caaagtgttc	gatgaattta	360
5033084	aacctcttgt	ggaagagcct	cagaatttaa	tcaaacaaaa	ttgtnagctt	tttgagcagc	420
E--> 5033085	ttggagagta	caaattccag	ggaagttcca	agttagtgc	agatcttacc	aaagtccaca	480
5033086	cggaatgctg	ccatggagat	ctgcttgaat	gtgctgatga	cagggcggac	cttgccaagt	540
5033087	atatctgtga	aaatcaagat	tcgatctcca	gtaaactgaa	ggaatgctgt	gaaaaacctc	600
5033088	tggttgaaaa	atcccactgc	attgccgaag	tggaaaatga	tgagatgcct	gctgacttgc	660
5033089	cttcattagc	tgctgatttt	gttgaaagta	aggatgtttg	caaaaactat	gctgaggcaa	720
5033090	aggatgtctt	cctgggcatg	tttttgatg	aatatgcaag	aaggcatcct	gattactctg	780
5033091	tcgtgtgctg	gctgagactt	gccaagacat	atgaaaccac	tctagagaag	tgctgtgccg	840
5033092	ctgcagatcc	tcataaatgc	tatgccaaag	tgttcgatga	atttaaacct	cttgtggaag	900
5033093	agcctcagaa	tttaatacaa	caaaattgtg	agctttttga	gcagcttgga	gagtacaaat	960
5033094	tccagaatgc	gctattagtt	cgttacacca	agaaagtacc	ccaagtgtca	actccaactc	1020
5033095	ttgtagaggt	ctcaagaaaa	cctaggaaaa	gtgggcagca	aatgttgtaa	acatcctgaa	1080
5033096	agcaaaaaga	aatgccctgt	tgcaagaaaa	ctatctatcc	gtggtcctga	accagttatg	1140
5033097	tngtgtttgc	atgaaaaaaa	cncctg				1166

Use of n and/or Xaa has been detected in the Sequence Listing.
 Review the Sequence Listing to insure a corresponding
 explanation is presented in the <210> to <220> fields of
 each sequence listing.

FYI Use of n and/or Xaa has been detected in the Sequence Listing.
 Review the Sequence Listing to insure a corresponding
 explanation is presented in the <210> to <220> fields of
 each sequence listing.

VERIFICATION SUMMARY

DATE: 05/07/2003

PATENT APPLICATION: US/10/084,643A

TIME: 14:48:17

Input Set : E:\pt_SEQ.502

Output Set: N:\CRF4\05072003\J084643A.raw

L:146 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:2 after pos.:0
M:341 Repeated in SeqNo=2
L:200 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:4 after pos.:120
L:233 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:5 after pos.:660
M:341 Repeated in SeqNo=5
L:383 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:11 after pos.:0
M:341 Repeated in SeqNo=11
L:412 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:12 after pos.:360
M:341 Repeated in SeqNo=12
L:477 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:14 after pos.:0
M:341 Repeated in SeqNo=14
L:812 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:20 after pos.:420
L:839 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:21 after pos.:360
L:933 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:23 after pos.:2460
M:341 Repeated in SeqNo=23
L:1019 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:25 after pos.:120
M:341 Repeated in SeqNo=25
L:1073 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:27 after pos.:540
M:341 Repeated in SeqNo=27
L:1149 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:30 after pos.:240
L:1200 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:31 after pos.:240
M:341 Repeated in SeqNo=31
L:1244 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:32 after pos.:1080
L:1322 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:35 after pos.:240
M:341 Repeated in SeqNo=35
L:1435 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:39 after pos.:360
L:1492 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:41 after pos.:540
L:1703 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:49 after pos.:0
M:341 Repeated in SeqNo=49
L:1765 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:51 after pos.:0
M:341 Repeated in SeqNo=51
L:1799 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:52 after pos.:360
M:341 Repeated in SeqNo=52
L:2071 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:61 after pos.:0
M:341 Repeated in SeqNo=61
L:2136 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:63 after pos.:360
L:2159 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:64 after pos.:120
M:341 Repeated in SeqNo=64
L:2184 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:65 after pos.:0
M:341 Repeated in SeqNo=65
L:2387 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:73 after pos.:360
M:341 Repeated in SeqNo=73
L:2710 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:85 after pos.:360
L:3035 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:93 after pos.:0
M:341 Repeated in SeqNo=93
L:3062 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:94 after pos.:0
M:341 Repeated in SeqNo=94
L:3179 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:96 after pos.:2160

VERIFICATION SUMMARY

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Input Set : E:\pt_SEQ.502

Output Set: N:\CRF4\05072003\J084643A.raw

L:3516 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:106 after pos.:0
L:3596 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:109 after pos.:420
L:2955329 M:254 E: No. of Bases conflict, LENGTH:Input:2220 Counted:2219 SEQ:90222
M:254 Repeated in SeqNo=90222
L:2955333 M:252 E: No. of Seq. differs, <211> LENGTH:Input:2401 Found:2400 SEQ:90222
L:3979361 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:1
L:4884736 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:1
L:4951754 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:1
L:4957275 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:7
L:4983769 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:1
L:5004861 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:1
L:5004862 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:4
L:5006009 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:1
L:5006010 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:14
L:5006123 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:5
L:5033085 M:320 E: (1) Wrong Nucleic Acid Designator, NUMBER OF INVALID KEYS:1
L:104 M:203 E: No. of Seq. differs, <160> Number Of Sequences:Input (158) Counted (158931)